unexplained would be waived by continuing the employment. *Sabin* v. *Kendrick*, 58 App. Div. 108, 68 N. Y. Supp. 546, holds that continuation of employment after breach is a waiver. *Dunkell* v. *Simons*, 7 N. Y. Supp. 655, supports the principal case, but the holding is the minority rule in this country.

MINES AND MINERALS—RESERVATION OF PETROLEUM AND NATURAL GAS.—In a deed to defendant's predecessor "all mineral and mining rights" were reserved to the grantor. Plaintiff here succeeded to those reserved rights. *Held*, that such reservation did not include petroleum and natural gas. *Preston et al.* v. *South Penn. Oil Co.* (Pa. 1913) 86 Atl. 203.

The decision in the case is based on only two Pennsylvania cases in accord with it, and only two other states are cited as reaching the same conclusions. The decision seems to be contrary not only to the weight of authority generally, but even to the law in Pennsylvania. As a general proposition "minerals" include all substances which are obtained from below the surface for profit. *Williams* v. *S. Penn. Oil Company*, 52 W. Va. 188; *Murray* v. *Allred*, 100 Tenn. 100. Salt lakes and salt springs are classed as "minerals." *State* v. *Parker*, 61 Tex. 265. Water is a "mineral." *Ridgeway Light & Heat Co.* v. *Elk County*, 191 Pa. 468; *West Moreland & Cambria Natural Gas Co.* v. *DeWitt*, 130 Pa. 249. Within this definition and these cases oil and petroleum must logically be included. So it seems to be by far the weight of authority in spite of the decision in the principal case. *Ohio Oil Co.* v. *Indiana*, 177 U. S. 190; *Manufacturers Gas & Oil Co.* v. *Indiana Natural Gas & Oil Co.*, 155 Ind. 468; *Gill* v. *Weston*, 110 Pa. 312; *Marshall* v. *Mellon*, 179 Pa. 371; *Williamson* v. *Jones*, 39 W. Va. 231; *Southern Oil Co.* v. *Colquit*, 28 Tex. Civ. App. 292; *Weaver* v. *Richards*, 156 Mich. 320; *Wagner* v. *Mallory*, 169 N. Y. 505; *Kelley* v. *Ohio Oil Co.*, 57 Oh. 317; SNYDER, MINES, §§ 143, 146.

MUNICIPAL CORPORATIONS—BUILDING REGULATIONS.—The city of Denver by ordinance prohibited the erection of store buildings within a specified residence section unless a majority of the land-owners on both sides of the street should consent, and unless the building should be erected a specified distance back from the front line of the lots. *Held*, that both these requirements were illegal, and that the building inspector could not refuse a permit because of non-compliance therewith. *Willison* v. *Cooke*, (Colo. 1913) 130 Pac. 828.

Judicial view expressed almost entirely in dicta is that attempts by municipalities to establish building lines by ordinances are abortive. See 11 MICH. L. REV. 401. The rule has been laid down and often approved that a city cannot, even under express legislative authority, impose restrictions upon the use of private property which are induced solely by æsthetic considerations. 2 DILLON, MUNIC. CORP. (5th Ed.) § 695; *Passaic* v. *Paterson Bill Posting Co.*, 72 N. J. L. 285; *Curran Co.* v. *City of Denver*, 47 Col. 226; 107 Pac. 261, 27 L. R. A. N. S. 544. It is, however, a valid exercise of the police power to establish reasonable restrictions on the character and size of buildings, to provide for security against fire, and to promote the public health or safety. FREUND, POLICE POWER, §§ 118, 128; *Welch* v. *Swasey*, 193 Mass. 364, 214

U. S. 91. But ordinances excluding from boulevards, etc., business occupations which are not noxious in their nature and restricting building thereon to residence uses only are void. 2 DILLON, MUNIC. CORP. (5th ed.) 1060; *St. Louis* v. *Dorr,* 145 Mo. 466; *Commonwealth* v. *Boston Advertising Co.,* 188 Mass. 348, 69 L. R. A. 817. The law on this subject is in process of development, and it is believed by many writers that the "increased æsthetic sentiment" will eventually cause such regulations to be recognized as valid. 20 HARV. L. REV. 35; 13 BENCH & BAR 10; *Eubank* v. *City of Richmond,* 110 Va. 749, 67 S. E. 376.

NEGLIGENCE—RULE OF RYLANDS V. FLETCHER.—The plaintiff occupied the second floor of a building leased from the defendant. On the third floor was a lavatory under defendant's control, and used by all of the tenants of the building. During the night, a third person stopped up the drain so that the lavatory overflowed and plaintiff's goods were damaged. No negligence on the part of the landlord was shown. *Held,* that defendant was not liable. *Richards* v. *Lothian* (1913) 82 L. J. P. C. 42.

It was held that this case did not come within the rule as laid down in *Rylands* v. *Fletcher,* 37 L. J. Ex. 161, that the person who, for his own purposes, brings on his lands and keeps there anything likely to do mischief if it escapes, must keep it at his peril. The court followed the *dictum* in *Nichols* v. *Marsland,* 46 L. J. Ex. 174, and the case of *Box* v. *Jubb,* 48 L. J. Ex. 417, which latter case cited the *dictum* of the former as law. This *dictum* was to the effect that the malicious act of a third person was to be taken, together with an act of God or *vis major,* as an exception to the doctrine *Sic utere tuo ut alienum non laedas.* It was pointed out that only when other than ordinary use was made of property did *Rylands* v. *Fletcher* control, that bringing water into a building for lavatory purposes is not such a use, and that in case of such ordinary use as this, negligence on the part of the landlord must be shown. The law in the United States has followed the English cases. *Becker* v. *Bullowa,* 73 N. Y. Supp. 944; *Marshall* v. *Cohen,* 44 Ga. 489. In *Rosenfield* v. *Newman,* 59 Minn. 156, a case similar to the principal case, it was held that the landlord is not liable when the damage is the result of a stranger's negligence. The case is decided on principle and without reliance on authority. *Kenney* v. *Barnes,* 67 Mich. 336, holds that the landlord is not liable for the act of a third person. In that case, the landlord had no control over the lavatory, and the case is decided on that ground and without supporting authority. While the cases in the United States on the point reach the same conclusion as the English cases, they do not place their finding on the ground, as does the principal case, that the act of a third person is an exception to the maxim above stated. This is doubtless due to the fact that the English courts are bound by *Rylands* v. *Fletcher supra,* while the courts of the United States have never followed that case to its full length.

PARTY-WALLS—RIGHT TO COMPENSATION FOR USE.—The charter of the City of W, provided that "the first builder shall be reimbursed one moiety of the charge of such party-wall, or for so much thereof as the next builder